



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 6
1445 ROSS AVENUE, SUITE 1200
DALLAS TX 75202-2733

AUG 24 2010

CERCLA 104(e) INFORMATION REQUEST
URGENT LEGAL MATTER: PROMPT REPLY REQUESTED
VIA FEDERAL EXPRESS

Brenda L Moore, Registered Agent For
MegaSand Enterprises, Inc.
P.O. Box 656
Highlands, TX 77562

Re San Jacinto River Waste Pits Superfund Site, Channelview, TX
SSID No. 06ZQ. EPA ID No. TXN000606611

Dear Madam:

The U.S. Environmental Protection Agency (EPA) seeks cooperation from the MegaSand Enterprises, Inc. (MSEI), a Texas corporation, with mailing address of 11501 Crosby Lynchburg Road, Crosby, Texas, in providing information and documents relating to the San Jacinto River Waste Pits Superfund Site (Site). Obtained information will aid EPA in its investigation of the release or threat of release of certain hazardous substances, pollutants or contaminants at this Site. MSEI's response will also help EPA develop a better understanding of activities that occurred at the Site.

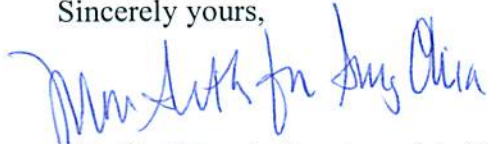
This information request is not a determination that your company is responsible or potentially responsible for contamination that occurred at the Site. The EPA is sending this letter as part of its investigation of the Site and does not expect your company to pay for or perform any site-related activities at this time. If EPA determines that your company is responsible or potentially responsible for response activities at the Site, your company will receive a separate letter clearly stating such a determination as well as the basis the EPA has for the determination.

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 104(e), 42 U.S.C. § 9604(e), gives EPA the authority to require MSEI respond to this information request (see Enclosure 1). We encourage your company to give this matter its full attention, and ***we respectfully request MSEI respond to this request for information within thirty (30) days of its receipt of this letter.*** You may designate another official of MSEI with the requisite authority to respond on behalf of the company. However, failure to respond to this information request may result in EPA seeking penalties of up to \$37,500 per day of violation. In addition, furnishing false, fictitious or fraudulent statements or representations is subject to criminal penalty under 18 U.S.C. § 1001.

Please provide a written response to Mr. Robert Werner, Enforcement Officer, at the address included in the Information Request. Please refer to Enclosures 3 and 4, which include important instructions and definitions, as well as the questions for response, in the preparation of your reply to this Information Request.

If you have any questions regarding this letter, contact Mr. Werner at (214) 665-6724. For legal questions concerning this letter, please have your legal counsel contact Ms. Barbara Nann, Attorney, at (214) 665-2157. Thank you for your attention to this matter.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Sing N. Chia", is written over a faint, larger signature that appears to read "Mr. Chia for Sing Chia".

Sing N. Chia, Acting Associate Director
Technical and Enforcement Branch
Superfund Division

Enclosures

ENCLOSURE 1

SAN JACINTO RIVER WASTE PITS SUPERFUND SITE

INFORMATION REQUEST

RESPONSE TO INFORMATION REQUEST

Under the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as the federal "Superfund" law, the U.S. Environmental Protection Agency (EPA) responds to the release or threat of release of hazardous substances, pollutants or contaminants into the environment to stop additional contamination and to clean-up or otherwise address any prior contamination.

EPA is requesting information under CERCLA Section 104(e). Section 104(e) may be found in the United States Code (U.S.C.) at Title 42 Section (section is denoted by the symbol "§") 9604(e). 42 U.S.C. §9604(e).

Pursuant to the authority of CERCLA §104(e), you are hereby requested to respond to the enclosed information request. If you have any questions concerning the Site's history or this information request letter, please contact Mr. Robert Werner, the designated Enforcement Officer for the Site, at phone number (214) 665-6724, fax number (214) 665-6660 or via email at werner.robert@epa.gov. Please mail your response within 30 calendar days of your receipt of this request to the following address:

Mr. Robert Werner, Enforcement Officer
Superfund Enforcement Assessment Section (6SF-TE)
U.S. EPA, Region 6
1445 Ross Avenue
Dallas, TX 75202-2733

If you or your attorney has legal questions that pertain to this information letter request, please contact Ms. Barbara Nann at phone number (214) 665-2157, fax number (214) 665-2182 or via email at nann.barbara@epa.gov. For contact via mail, use the following address:

Ms. Barbara Nann, Attorney
Office of Regional Counsel (6RC-S)
U.S. EPA Region 6
1445 Ross Avenue
Dallas, Texas 75202-2733

ENCLOSURE 2

SAN JACINTO RIVER WASTE PITS SUPERFUND SITE

INFORMATION REQUEST

BACKGROUND INFORMATION

The Site is located east of the City of Houston in Harris County in the State of Texas in the area where the Interstate Highway 10 Bridge (I-10) crosses over the San Jacinto River (see Enclosure 5). The Site's known land area is a 20-acre tract of land (Tract). This Tract is adjacent to the north side of I-10 and the west side of the San Jacinto River. This Tract is located in an unincorporated area known as Channelview. The area of the San Jacinto River that is within the Site's boundaries is north, east and south of the Tract. This area of the San Jacinto River is located between the two unincorporated areas known as Channelview and as Highlands. The Site itself has no specific street address.

Soil samples taken from the Tract and from river sediments in areas of the San Jacinto Rivers that are north, east, and south of the Tract have confirmed the presence of certain hazardous materials, including dioxin. River sediment in this area is suspected to be contaminated with certain hazardous materials, including dioxin, which might have migrated from the Tract. The EPA has evidence that indicates dioxin had been transported to the Tract in waste paper mill sludge that had been released onto the Tract during the 1960's.

Virgil C. McGinnes, Trustee is the Tract's current owner of record. Virgil C. McGinnes is deceased. Three exposed abandoned waste disposal pits are located on this abandoned Tract. The three abandoned waste pits cover an area that approximates 3.5 acres of the abandoned Tract's 20-acre area. Part of the abandoned Tract, including the abandoned disposal pits, is now below the adjacent San Jacinto River's water surface.

Samples collected in the area of the abandoned waste pits and in river sediments in the areas that are north, east, and south of these pits have dioxin concentrations as high as 41,300 parts per trillion. Sediments contaminated with high levels of dioxin have been found in the San Jacinto River for a distance of at least one-half mile downstream from the disposal pits.

On September 19, 2007, (72 FR 53509) the Site was proposed for listing on the National Priorities List (NPL). On March 19, 2008, (73 FR 14179) the final listing of the Site onto the NPL occurred.

ENCLOSURE 3

SAN JACINTO RIVER WASTE PITS SUPERFUND SITE

INFORMATION REQUEST

INSTRUCTIONS and DEFINITIONS

INSTRUCTIONS

1. Please provide a separate narrative response for each and every Question and subpart of a Question set forth in this Information Request.
2. Precede each answer with the Question (or subpart) and the number of the Question (and the letter of a subpart of a Question, if applicable) to which it corresponds.
3. If information or documents not known or not available to you as of the date of submission of a response to this Information Request should later become known or available to you, ***you must supplement*** your response to the U.S. Environmental Protection Agency (EPA). Moreover, should you find, at any time, after submission of your response, that any portion of the submitted information is false or misrepresents the truth, or, though correct when made, is no longer true, you must notify EPA of this fact as soon as possible and provide EPA with a corrected response.
4. For each document produced in response to this Information Request, indicate on the document, or in some other reasonable manner, the number of the Question (and the letter of a subpart of a Question, if applicable) to which it responds.
5. You may assert a business confidentiality claim covering part or all of the information which you submit in response to this request. Any such claim must be made by placing on (or attaching to) the information, at the time it is submitted to EPA, a cover sheet or a stamped or typed legend or other suitable form of notice employing language such as "trade secret," "proprietary," or "company confidential." Confidential portions of otherwise non-confidential documents should be clearly identified and may be submitted separately to facilitate identification and handling by EPA. If you make such a claim, the information covered by that claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in subpart B of 40 CFR Part 2. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you. The requirements of 40 CFR Part 2 regarding business confidentiality claims were published in the Federal Register on September 1, 1976, and were amended September 8, 1976, and December 18, 1985.
6. Personal Privacy Information. Personnel and medical files, and similar files the disclosure of which to the general public may constitute an invasion of privacy should be segregated from your responses, included on separate sheet(s), and marked as "Personal Privacy Information."
7. Objections to questions. If you have objections to some or all the questions within the Information Request Letter, you are still required to respond to each of the questions.

DEFINITIONS

The following definitions shall apply to the following words as they appear in this enclosure:

1. The terms "and" and "or" shall be construed either disjunctively or conjunctively as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.
2. The term "any", as in "any documents" for example, shall mean "any and all."
3. The term "arrangement" means every separate contract or other agreement between two or more persons.
4. The terms "document(s)" and "documentation" shall mean any object that records, stores, or presents information, and includes writings of any kind, formal or informal, whether or not wholly or partially in handwriting, including by way of illustration and not by way of limitation, any invoice, manifest, bill of lading, receipt, endorsement, check, bank draft, canceled check, deposit slip, withdrawal slip, order, correspondence, record book, minutes, memorandum of telephone and other conversations including meetings, agreements and the like, diary, calendar, desk pad, scrapbook, notebook, bulletin, circular, form, pamphlet, statement, journal, postcard, letter, telegram, telex, telecopy, telefax, report, notice, message, analysis, comparison, graph, chart, map, interoffice or intra office communications, photostat or other copy of any documents, microfilm or other film record, any photograph, sound recording on any type of device, any punch card, disc pack; any tape or other type of memory generally associated with computers and data processing (together with the programming instructions and other written material necessary to use such punch card, disc, or disc pack, tape or other type of memory and together with the printouts of such punch card, disc, or disc pack, tape or other type of memory); and (a) every copy of each document which is not an exact duplicate of a document which is produced, (b) every copy which has any writing, figure or notation, annotation or the like on it, (c) drafts, (d) attachments to or enclosures with any document and (e) every document referred to in any other document.
5. The term "identify" means, with respect to a natural person, to set forth the person's name, present or last known business and personal addresses, email address(es), and telephone numbers, and present or last known job title, position or business. Also provide e-mail addresses.
6. The term "identify" means, with respect to a corporation, partnership, business trust or other association or business entity (including, but not limited to, a sole proprietorship), to set forth its full name, address, and legal form (e.g. corporation [including state of incorporation], partnership, etc.), organization, if any, a brief description of its business, and to indicate whether or not it is still in existence and, if it is no longer in existence, to explain how its existence was terminated and to indicate the date on which it ceased to exist. Also provide e-mail addresses.

7. The term "identify" means, with respect to a document, to provide the type of document, to provide its customary business description, its date, its number, if any (invoice or purchase order number), subject matter, the identity of the author, addressor, addressee and/or recipient, and the present location of such document.
8. The term "person" shall have the same definition as in Subsection 101 (21) of CERCLA, 42 U.S.C. § 9601 (21).
9. The term "Site" shall mean and include the San Jacinto River Waste Pits Superfund Site located east of the City of Houston in Harris County in the State of Texas in the area where the Interstate Highway 10 Bridge (I-10) crosses over the San Jacinto River, both before and after EPA response action under CERCLA.
10. The term "you" or "Respondent" shall mean the addressee of this Request, the addressee's officers, managers, employees, contractors, trustees, partners, successors and agents.
11. Words in the masculine shall be construed in the feminine, and vice versa, and words in the singular shall be construed in the plural, and vice versa, where appropriate in the context of a particular question or questions as necessary to bring within the scope of this Information Request any information which might otherwise be construed to be outside its scope.
12. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA, RCRA, 40 CFR Part 300 or 40 CFR Parts 260-280, in which case the statutory or regulatory definitions shall apply.

ENCLOSURE 4

SAN JACINTO RIVER WASTE PITS SUPERFUND SITE

INFORMATION REQUEST

QUESTIONS

1. Identify the person(s) that provides answers to the questions below on behalf of MegaSand Enterprises, Inc. (MSEI).
2. Has MSEI ever participated in any planning for dredging activities in the area of the San Jacinto River, along its south bank, on the north side of the I-10 Bridge in Harris County, Texas? (see Enclosure 5, Aerial photo)
3. Has MSEI ever participated in any dredging activities in the area of the San Jacinto River, along its south bank, on the north side of the I-10 Bridge in Harris County, Texas? (see Enclosure 5, Aerial photo)
4. If your answer to either question #2 or #3 is yes:
 - A. Please provide copies of all documents in your possession that describe or contain any information that pertains to MSEI's participation in planning and/or dredging operations in the above described area of the San Jacinto River.
 - B. Please describe the dredging activities that MSEI participated in planning for and/or was involved with sand dredging operations conducted in the above described area of the San Jacinto River. Your answer should include, but not be limited to:
 - 1) The period that actual dredging activities occurred.
 - 2) The name of any third party that directed or in any way controlled MSEI's involvement with dredging operations in the above described area of the San Jacinto River.
 - 3) The location placement of any waste dredging material, i.e., disposition of "overburden" that resulted from sand dredging activities in the above described area of the San Jacinto River.
5. If your answer to the above questions # 2 and #3 is no, please explain why a Letter, dated November 20, 1998, from Houston International Terminal to Department of the Army (see Exhibit 5) identifies that, "In late 1997 we entered into a working contract with Mega Sand (Dan & Brenda Moore) who agreed to the mitigation plan. In September 1997 dredging recommenced and work on the mitigation plan started."

6. Please describe the corporate relationship between MegaSand, Inc., a dissolved Texas corporation and MSEI, an active Texas corporation.
7. Please identify the names of all dredging companies that you have reason to believe have, at any time, participated in the planning of, and/or participated in, dredging operations in the above described area of the San Jacinto River.

ENCLOSURE 5

SAN JACINTO RIVER WASTE PITS SUPERFUND SITE

INFORMATION REQUEST

SUPPORTING DOCUMENTS

1. Aerial photo - Preliminary Perimeter of San Jacinto Waste Pits, Harris County TX.
2. Houston International Terminals Drawing, Perimeter of Dredging Area, # 19284.
3. Letter, dated March 1, 1991, from Port of Houston Authority to the U.S. Army Corps of Engineers, concerning Permit Application 19284.
4. Letter, dated September 2, 1993, from Parker Lafarge Inc. to U.S. Army Corps of Engineers, concerning Permit No. 19284.
5. Letter, dated November 20, 1998, from Houston International Terminal to Department of the Army, Corps of Engineers, concerning Permit No. 19284(02).

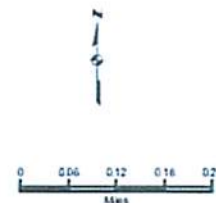
Preliminary Perimeter San Jacinto Waste Pits Harris County, TX

Legend

- Sampling Site w/ TEQ*
- Concentration (ng/kg-dw)
- Northern Impoundment
- Perimeter
- Preliminary Perimeter
- McGinnis Parcel

*2,3,7,8-TCDD Equivalents (TEQs) in
Surface Sediments
(pg/g dw, ND=1/2DL, WHO 05)

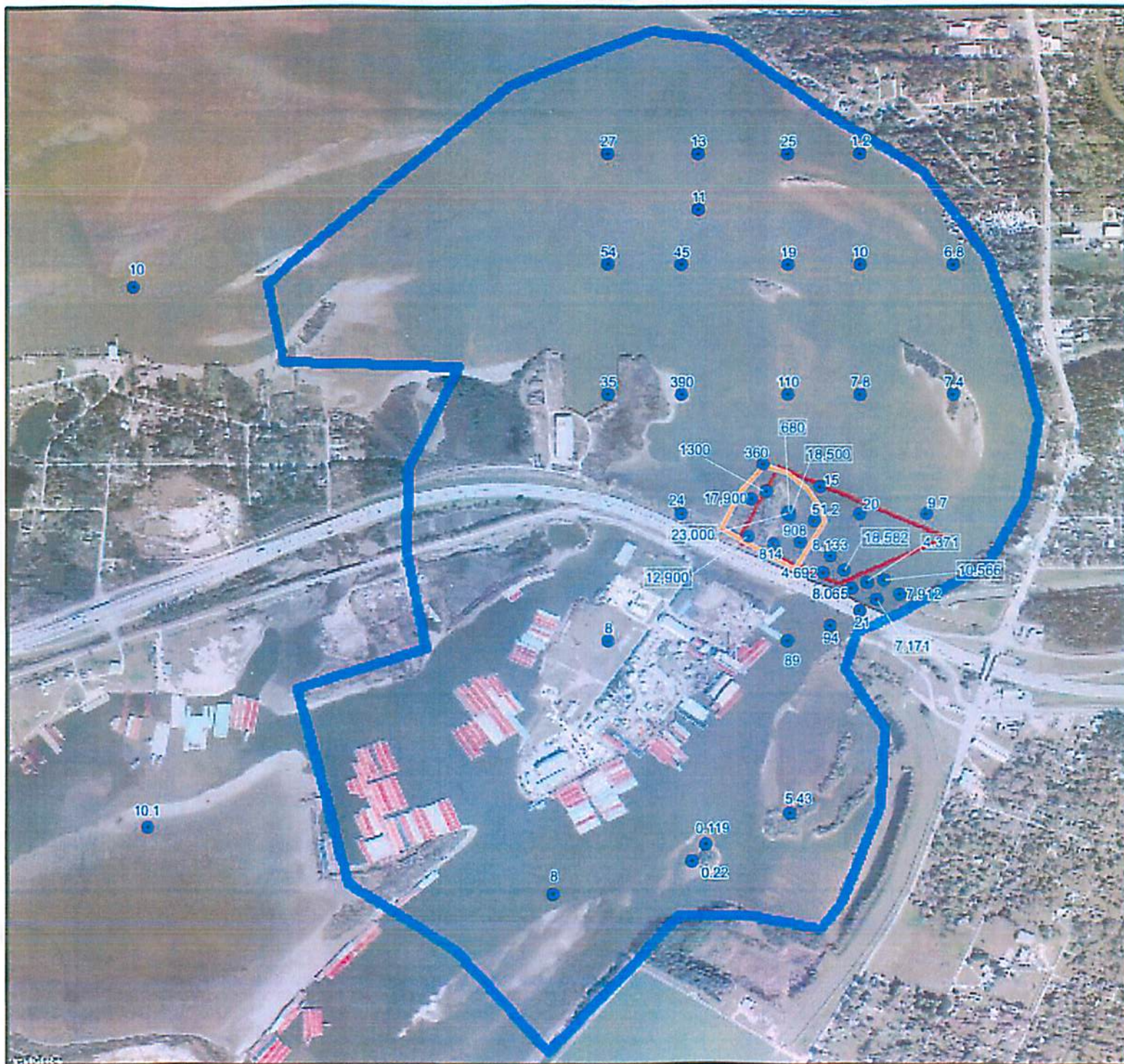
The displayed TEQ Concentrations
are the highest values for each
sampling location. All concentrations
are from sediment sampling.

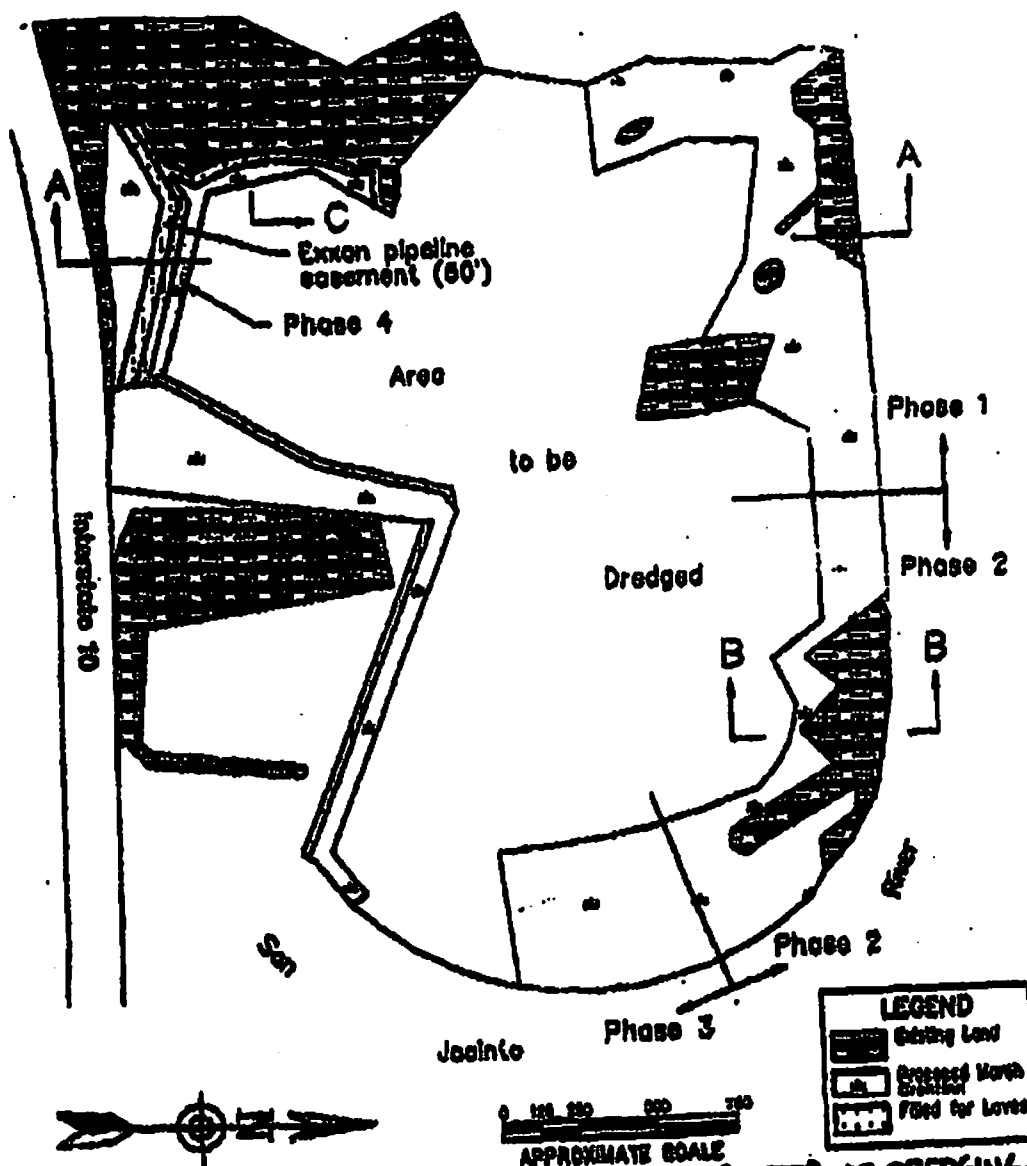


Sources:
Aerial Photo: Digital Globe, 12/01/2007.
McGinnis Parcel: Harris County Appraisal
District, 2008.
Sampling sites and concentrations: TCEQ,
the University of Houston, TxDOT, and Integral
Consulting.
Preliminary Perimeter: EPA Region 6 GIS (from
discussions between EPA Region 6 and TCEQ).
Northern Impoundment: EPA Region 6 GIS.

EPA makes no claims as to the accuracy of the data
or its suitability for any particular use.

Map created June 17, 2010





- NOTES:**
- ① ALL SLOPES AROUND PERIMETER OF DREDGING- Plan view of proposed mitigation will be 3:1
 - ② ALL PLANTED AREAS WILL BE PROTECTED BY "CAGING" OR FENCING.

19284
HOUSTON
INTERNATIONAL TERMINALS
PG. 2 OF 6

U.S. MAR 1991

PORT OF HOUSTON AUTHORITY

EXECUTIVE OFFICE, 1119 CAPITOL AVENUE
HOUSTON, TEXAS 77257-1642
TELEPHONE (713) 226-3100
TELEX 910-001-1707

P.O. BOX 1162

HOUSTON, TEXAS 77257-1642



F. WILLIAM COLEMAN
Director of Economic Development
(713) 226-3107

March 1, 1991

U. S. Army Corps of Engineers
District Engineer
P. O. Box 1229
Galveston, TX 77558-1229
Attn: Mr. Ron Stouffer

Subject: Permit Application 19284

Dear Mr. Stouffer:

The Port of Houston Authority hereby registers its objection to the above referenced Permit Application. The basis for concern is:

1. The area in question (or portions thereof) belong to the State of Texas or to the Port Authority by virtue of Senate Bill 222, Chapter 292, Acts of the 1927 Legislature.
2. The area in question contains sites of ongoing efforts by the Galveston Bay Foundation, Salt Water Angler's League of Texas, Trinity Bay, Inc., the U.S. Soil Conservation Service and Harris County Extension Service, in conjunction with the Port Authority, to re-establish brackish marsh habitat, beginning with the transplanting of smooth cordgrass (*Spartina alterniflora*) in the area. The thousands of hours of volunteer labor and thousands of dollars invested by the Port Authority and others in this on-going effort to replace valuable habitat would be wasted. (Map attached). Similar improvements are planned in this area during 1991.
3. To allow this activity to occur would permanently remove both existing shallow water habitat and the opportunity to develop marsh habitat - both of which are disappearing from the Bay at a greater rate than they are being replaced.

SEP 03 1993



September 2, 1993

Ms. Jane M. Boslet, Biologist
U. S. Army Corps of Engineers
Galveston District
Regulatory Branch, Evaluation Sec.
P. O. Box 1229
Galveston, TX 77553-1229

Re: Permit No. 19284

Dear Ms. Boslet:

As described to you at the Inter-agency Meeting on July 21, 1993, we have entered into an agreement with Captain Jack Roberts, Houston International Terminal, to dredge sand for commercial purposes under the referenced Permit.

As described during that meeting, we will be proposing an amendment in the mitigation plan which will allow us to construct one contiguous wet land area which would ultimately be more beneficial as a habitat.

However, prior to submitting our formalized mitigation plan amendment, we will conduct a pilot dredging operation to determine that there is sufficient sand to be commercially feasible, and that it can be economically recovered. This pilot operation is allowed under the referenced Permit.

We will be moving the Dredge Echo II into the area on September 3, 1993, and plan to begin exploratory dredging by September 9, 1993. It is expected that these exploratory operations will take approximately 30 days.

After evaluation of our pilot dredging test data, we will formalize our amendment to the mitigation plan and submit it to your office for approval.

During the Inter-agency Meeting, you provided us with a list of information you would like to have included in the amendment. It would be much appreciated if you could request the other interested agencies to indicate the information they would like to have in the amendment so that we can address the entire matter at one time.

NOV 30 1998



November 20, 1998

18001 - 1-10
CHANNELVIEW TEXAS
REPLY TO
2918 GREEN FEE DRIVE
PEARLAND, TEXAS 77561
149-485-2464
- 51

Department of the Army
Galveston District
Corps of Engineers
P.O. Box 1229
Galveston, Texas 77553-1229

Attention: Mr. John Davidson

Re: Permit No. 19284(02)

Dear Sir:

This letter will confirm my past telephone conversations and your personal conversations with Mr. D. Moore of Mega Sand at Houston International Terminal. At this time we would like to reiterate our position which is as follows:

The original permit was issued after much discussion during conferences and meetings with Parker Brothers. As you know Parker merged to form Parker LaFarge which set back our operations by at least a year. Only one(1) barge load was removed by Parker LaFarge.

Parker LaFarge sold out and the new owners closed down the dredging operations and sold off all of their floating equipment.

All of this was done after a mitigation plan was submitted and approved. We were into 1996, and no further dredging was performed during this period.

In late 1997 we entered into a working contract with Mega Sand (Dan & Brenda Moore) who agreed to the mitigation plan. In September 1997 dredging recommenced and work on the mitigation plan started. Work progressed, but has been halted on several occasions by floods and bad weather. In the case of floods, the most recent being November 13, 14, and 15, 1998, the flood waters and currents have caused the removal of some of the material deposited in the mitigation sites.

We will keep Ms. L. Shead advised of the progress, in order that she may advise the Galveston Bay Foundation.



United States
Environmental Protection Agency
Region 6
445 Ross Ave, Ste 1200
Dallas, Tx 75202-2733

<http://www.epa.gov/region6>
1-800-887-6063

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7007 2560 0002 7736 9032

Brenda L. Moore, Registered Agent
for MegaSand, Enterprises, Inc.
P.O. Box 656
Highlands, TX 77562

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PS Form 3800, August 2000	

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U.S. Environmental Protection
Agency, Region VI (6SF-TE)
Attn: Robert Werner
1445 Ross Avenue
Dallas, TX 75202

SENDER: COMPLETE THIS SECTION

- Complete Items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

Brenda L. Moore, Registered Agent
for MegaSand, Enterprises, Inc.
P.O. Box 656
Highlands, TX 77562

2. Article Number
(Transfer from service label)

7007 2560 0002 7736 9032

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

UNITED STATES POSTAL SERVICE



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• Sender: Please print your name, address, and ZIP+4 in this box •

U.S. Environmental Protection
Agency, Region VI (6SF-TE)
Attn: Robert Werner
1445 Ross Avenue
Dallas, TX 75202



SENDER: COMPLETE THIS SECTION

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P.O. Box 656
Highlands, TX 77562

2. Article Number
(Transfer from service label)

7007 2560 0002 7736 9032

PS Form 3811, February 2004

Domestic Return Receipt

102595-02-M-1540

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X

☐ Agent

☐ Addressee

B. Received by (Printed Name)

C. Date of Delivery

8/27/00

D. Is delivery address different from item 1? ☐ Yes

If YES, enter delivery address below: ☐ No

3. Service Type

☒ Certified Mail

☐ Express Mail

☐ Registered

☐ Return Receipt for Merchandise

☐ Insured Mail

☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes